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WHEN THE STATE TURNS AGAINST ITS OWN CITIZENS: REVISITING POLICE BRUTALITY AS AN OBSTACLE TO PEACE AND DEVELOPMENT IN ZIMBABWE

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ABSTRACT

This analysis comes at a strategic yet uncertain period in Zimbabwe when the nation is going through a political transition. A lot of uncertainty surrounds the outcome of this transition. Since the 1980s, Zimbabwe has been entrenched in a plethora of crises including vast human rights abuses hinged on pervasive police brutality. The police have increasingly become predatory against the Zimbabwean populace, followed by disappearances of human rights defenders and activists. Elections have always been marred by political violence perpetrated by both State and non-state actors to the detriment of human rights and good governance. Whilst the leadership in the governing party has aged, the mantra 'Save Zimbabwe' has become vibrant. Efforts to thwart democratic movements have failed in Zimbabwe. Given the oncoming 2018 elections in Zimbabwe, this paper seeks to examine the impact of police brutality and explore the pros and cons of such attitudes and behaviours so as to recommend how Zimbabwe can mitigate police brutality and foster tolerance, co-existence, peace, development and human security.

Key Words: Police brutality, democracy, bill of rights, use of force, civil-political rights, human rights and violence.

INTRODUCTION

State-sponsored violence and police brutality in violation of fundamental human rights, which are an integral part of democracy, has been at centre stage for most, if not all post-independent States. Establishing accountability for State/police brutality (which I will use interchangeably because the State uses the police to exercise its authority, power and control) remains an uphill task, whilst in most cases, it is on the rise. To make matters worse, the State has made tremendous efforts to conceal evidence, obstruct justice and attribute violence to other players before, during or after mass demonstrations, abduction of human rights defenders/activists and towards elections. It is important to assess how State-sponsored violence can affect development either positively or negatively, especially in a country that is trying to emerge out of political and economic challenges towards peace and development.

Against such a bleak background, this paper seeks to embark on an analysis focusing on police brutality in Zimbabwe under the auspices of the new Constitution which was adopted in 2013 and the events which ensued thereafter, including the unprecedented transition. Between July and August 2018 Zimbabwe is having elections and it may be vital to critically examine police brutality in a period of much uncertainty and scepticism of the new government. The discussion will essentially focus on the experiences, plight and needs of Zimbabwean citizens who encounter violence and bear the brunt of brutality at the hands of the police, unabated in a country which has experienced political and economic decomposition for over a decade to the detriment of democracy and good governance.

DEFINITIONS OF KEY TERMS

Police brutality: Bruce (2002) defines it as a situation which occurs when members of the police service use force unlawfully. In essence, brutality is the (unlawful) abuse of the capacity to use force in violation of human rights. By implication, police brutality is generally deliberate violence and actions which amount to criminally negligent use of force.

Human rights are the inherent recognition of the dignity and equal, inalienable rights of all members of the human family" (Basu, 2004). They are claims that one has against the State...they are equal rights as everyone else is born equal to the other" (Donnelley, 2003), enshrined in the Bill of Rights such as Freedom from torture, intimidation, assault, physical harm and death among others. Hence, in this way, police brutality and human rights are intertwined in this discussion.

SOCIO-POLITICAL DEVELOPMENTS IN ZIMBABWE: 1980-2000

Traditionally, incidences of police brutality have been popular in Matebeleland; however recent developments relating to the emergence of opposition politics and vast disgruntlement perpetuated by socio-economic decomposition in Zimbabwe

has led to the spread of police brutality across the country, especially in the capital, Harare and the rural areas. Zimbabwe, a country which promised both economic and social stability after independence in 1980, went under scrutiny following high cases of police brutality directed at protesters and demonstrators from the 1990s into the new millennium which was characterised by gross human rights abuses and the reluctance of the State to implement the constitution.

At independence in 1994, issues pertaining to Black empowerment, health and education for all became key matters, whilst forgiveness and reconciliation took precedence as espoused by the outgoing Prime Minister Ian Smith and the incoming Robert Mugabe. However, real issues which needed reform were neither interrogated nor debated, thus deepening the roots of structural violence which were inherited from the Smith regime. Consequently, the governing party's 'top brass' retained colonial ranks and policies governing police conduct, unaltered. The police force was inherited as it was without any sound reforms in 1980. The overarching belief of the new government in 1980 was that if control was not exercised, powerful institutions would fall into the wrong hands, thus promoting sectarian interests (Mabika, 2005). Not surprisingly, this did not augur well with the Black masses who anticipated the removal of a White hegemony which would be replaced by a new people-driven democracy.

Moreover, the 1980s saw the emergence of an elite and middle class which retained strategic and powerful political-economic institutions in the country including the police force. Any gesture of security sector reform implied socio-economic insecurity for the elite minority. The result was that after ten years into "democracy", reviewing draconian colonial legislation, security sector reform and extensively cultivating the Bill of Rights were not prioritized and "not requiring any major concern at that time." According to Pigou (2003), in transitional situations issues of reform and accountability for past abuses are all too often sacrificed as part of the negotiated political "deal". This was the case in the controversial Gukuruhundi massacres which occurred between 1982 and 1987 mainly in Matebeland and the Midlands for which no one wants to take responsibility.

The police and the army were at the centre of this and other operations which came later. Indeed, establishing accountability for human rights violations in Zimbabwe is often portrayed as an unrealizable and distractive ordeal and an obstacle to transition, antithetical to the objectives of "national reconciliation and nation-building." Hence, Nyong'o (1991) argues that one of the most inspiring ideals of independence movements was democracy, "but with the social tragedy of Africans, it was not consolidated nor have societies been reconstructed in a positive way" (Emerson, 1960) to promote development. Incidences in the 1980s into the new millennium stripped the Zimbabwean government of its legitimacy and credibility in the international community.

The lack of consolidation and reconstruction of national institutions and systems has translated into immense human rights abuses in the Zimbabwean community by the Zimbabwe Republic Police (ZRP) in the same way as it was during the Smith's regime. The reality in Zimbabwe remains in acute contrast to the stated intent of the protective regime of rights and remedies set out in the Bill of Rights of the Zimbabwean Constitution. According to Burger (2013), the decision to demilitarize the police, moving away from its history of brutality, was a key transformation goal after 1980, but it never happened.

THE NEW MILLENNIUM UP TO DATE: 2000-2017

Despite the State's efforts to curb any opposition by forming a one-party State, the soaring prices and decreasing standards of living in the late 1990s, dissatisfaction expressed by the trade unions and the referendum in 2000 to reinforce Presidential powers among other things, culminated in the formation of a resilient civil society movement led by the National Constitutional Assembly and an opposition party, the Movement for Democratic Change (Raftopolous, 2010), which entirely changed the face of politics in Zimbabwe altogether in the new millennium.

Despite these democratic developments, the larger sector of the Zimbabwean population was (is) still gripped with fear to engage in politics. The ongoing and recurrent crackdowns and arrests by the police have caused socio-political paralysis in Zimbabwe. Since 2000, police brutality is on the rise in Zimbabwe. Between the period 2000 and 2016, human rights activists such as Jestina Mukoko, Itai Dzamara and Evan Mawarire have been incarcerated, abducted, disappeared, charged with treason or forced to leave the country, opposition legislators sent death threats and rallies violently disrupted. This approach has kept many autocracies in power, including the one in Zimbabwe which has ruled for 37 years with an iron fist, the police force being at the centre of instigating fear and violence among the masses.

However, the police department has never been charged with violating the law or Constitution. Police arrogance is still paraded and force being used up to date in Zimbabwe openly. In essence, after the fall of an authoritarian regime it is vital to embark on profound structural reforms so as to break the cycle of impunity and repression, yet President Mugabe in the ensuing years after 1980 failed. The police are one major instrument that the State uses to exercise its power and control, yet still, the police were ignored and slowly it gathered momentum to abuse its power. In a 'democratic' South Africa just like in Zimbabwe most of the colonial legislative laws covertly remained the same whilst the governing party is caught-up in consolidating its power.

Hence, Themba Lesizwe (2003) argues that violations remain widespread and remedial mechanisms impotent, despite a new Constitution and consensus around conventions dealing with human rights. The machinery that is supposed to be protecting human rights is as good as defunct in Zimbabwe. In my own considered opinion, it is the command which instigates violence, preventing low ranking police officer's obligation under the Independent Police Investigative Directorate to arrest or report human rights violations by fellow police officers (Petros, 2013). Besides, it is difficult for most junior officers to report senior officers due to fear of being sacked. In light of the recent videos that went viral on the internet, of officers assaulting and arresting women, men and children following the protests which gripped Zimbabwe in August 2016 onwards, I am of the view that the chances that these violations are going to be investigated by the police are very slim. No one is going to be accountable or responsible.

Due to concealment of evidence and fear to report other officers by fellow policemen, most reported cases just disappear into the thin air without getting a chance to be heard in the court of law. Thus, Human Rights Watch argues that there are severe cases of police torture a year that are reported in Zimbabwe, yet there are many more that are not reported (Human Rights Watch, 2016). This implies that Zimbabwe's incumbent rulers and colonial predecessors have inculcated a culture of impunity and a lack of accountability that spawns police violence and brutality that has shielded many from liability and continues to do so.

My intuitive view is that police brutality in Zimbabwe is a top-down approach that is being instigated by the top brass in political offices so as to maintain the status quo and remain in power through fear. Suddenly those who are compelled to exercise the responsibility to protect have resorted to the responsibility to abuse. Hence, new police officers adopt a culture of diabolic impunity that they find in existence, thus the cycle is proving unbreakable for the government of Zimbabwe. It is easy to learn, yet it is very difficult to unlearn.

In as much as the *Gukurahundi* massacres are an unfortunate milestone in assessing human rights violations in Zimbabwe, sporadic violence against the citizenry denotes a systemic crisis, when combined will claim more lives than the massacres. Petros (2013) notes that too many police officers are not abiding by the code that is supposed to regulate their behaviour. In this way, negligence is propagated by some sort of 'assimilation' that perpetuates a belief that 'Smith style' violence is the only way to crush voices of dissent. Unfortunately, the police (not vigilante groups) are the protagonists of human rights abuses which indicates that the Zimbabwe Republic Police (ZRP) must be expeditiously reformed in a bid to save the public from further persecution.

The diabolical character of the police in Zimbabwe has indefinitely precipitated a volatile relationship between the ZRP and the masses so that during protests citizens retaliate violently en masse. There is a serious lack of trust between the State and the people. Usually, the confrontation culminates in the Hobbesian state of nature wherein "every man is against every man." Violent disruption of protests in Zimbabwe illuminates an arrogant State which abuses its power to the extent of turning against its own citizens. It seems that the State no longer cares for the needs, rights and well-being of the people but for its own survival.

There is not a Social contract between the State and the people in Zimbabwe anymore. It died many years ago. If there was, Zimbabwe would have recorded a decrease rather than an increase in police brutality after 37 years of "celebrating independence." Emerson (1960) was probably right when he predicted that "democracy in Africa would bleed and die on the altars of national consolidation and social reconstruction" and South Africa is not an exception. In the same vein, Nyong'o (1991) decried why Africa has trodden this rather tragic path in her post-independence history and what has happened to the inspiring and heroic 'democratic' struggles waged by the nationalists.

Democracy entails respect and observance of human rights, good governance and the rule of law yet the ZRP violates human rights and practices the rule by law which is in stark contradiction to the Constitution *in toto*. So my question is *whither* goes Zimbabwe after 37 years of independence? The ambiguous narrative of “national unity,” is underlined by a lack of political will to initiate a comprehensive police reform. To many, the government has become nothing more than a 'paper tiger' promising a lot but delivering little. Contradictions between the ZRP, the masses and the Constitution are more conspicuous and complex in Zimbabwe now more than before.

Recent events in Zimbabwe indicate that there is a possibility of an escalation in the use of a heavy hand to repress any uprisings. Even though people celebrated that Mugabe was removed from office through a military intervention, I am of the view that the military used this opportunity to show its power. The transition of power from Mugabe to Mnangagwa was peaceful simply because the police and military which instigated violence in past years led the takeover of power. My fear as a citizen is that people en masse endorsed and revived the governing party and military such that in the near future both might justify violent interventions against democratic protests and uprisings against the masses. On the day of inauguration, 24/11/2017, when Emmerson Mnangagwa officially assumed office as President, controversial characters such as Chihuri, the Commissioner of the police and army Generals were reinstated. In my own view, the leadership changed at the executive level, but the system remains the same. When the music stops, the State might revert to its old ways and State/police brutality might continue to the detriment of peace and development in Zimbabwe. I do not envision a scenario wherein ZANU-PF will reform itself out of power; it will protect its turf through any means possible.

However, Bittner (1990) argues that the central thread that runs through police work is that it frequently “consists of coping with problems in which force may have to be used. . . force inevitably has to be used in some situations.” In situations where members of the police use force, it is necessary for them to carry out their responsibilities (Bruce, 2002). The use of force is concomitant with the State's obligation to maintain public order and self-defence given the salience of crime and the culture of violence in Zimbabwe. In International relations, the State is the only entity that has the right to use force against its own citizens.

Whilst the force of force is heavily contested, I am of the view that it is erroneous to mistake the use of force for police brutality. The State is also in violation of the Constitution when it uses the military/ police apparatus to quell citizens of Zimbabwe from exercising the rights to express themselves, mobilise, demonstrate, demand accountability from duty bearers, coerced to do things they do not want to and exercise other constitutional rights. It is also unjustifiable to use excessive force against an unarmed or non-resisting people, as is usually the case in Zimbabwe.

CONCLUSION

The writer maintains that the use of force should not be mistaken for police brutality. Force must be the last resort, whilst brutality is not acceptable. Evasion from the rule of law must be vehemently condemned by the civil society, security sector, media and others in a 'democratic' society. All these must collaborate and cooperate to thwart State/police brutality and replace fear with non-violence, coexistence, dialogue, respect of human rights, tolerance and democracy so as to rebuild confidence and trust between the community and the State which is obligated to protect not persecute them. Respect for human rights guarantees the legitimacy of the government in the eyes of the international community and promotes nation-building and development in any country due to the prevalence of peace.

RECOMMENDATIONS FOR THE WAY FORWARD

Deducing from the discussion above, one would like to recommend that;

- Police reform is essential. Accompanying Demonopolization, Democratisation, Demilitarization and Reintegration (DDDR) must be implemented.
- The police should undergo intensive human rights training courses in line with the Bill of Rights which espouses freedoms and liberties of the individual. In doing so, the police force is equipped with the normative functions of human rights so that they know their limits and obligations in the field.
- Assuming the police go in the field stressed, under the influence of drugs, bitter or angry, officers should go through regular Counselling and Rehabilitation Programs which ensure sober-mindedness in the line of duty.
- Perpetrators or at least those who instigate police brutality must be brought to book and be rehabilitated so that others learn from their mistakes. Some rogue elements that are still in office must be relieved of their duties.

- The community must be educated about their rights so that when they are violated they know when, why, where and how to report or file a case at court. so that when they are violated they know when, why, where and how to report or file a case at court.

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